



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR -2021-0134; FRL-10020-93-Region 9]

Air Plan Approval; Arizona; Pinal County Air Quality Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Pinal County Air Quality Control District (PACQCD or District) portion of the Arizona State Implementation Plan (SIP). These revisions concern the District's negative declarations for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS or "standards") in the portion of the Phoenix-Mesa ozone nonattainment area under the jurisdiction of the PACQCD and two volatile organic compound (VOC) rules covering gasoline dispensing and surface coating operations. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Comments must be received on or before [Insert date 30 days after date of publication in the *Federal Register*].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2021-0134 at <https://www.regulations.gov>. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make.

The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Nicole Law, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947-4216 or by email at Law.Nicole@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

Table of Contents

- I. The State’s Submittal
 - A. What documents did the State submit?
 - B. Are there other versions of these documents?
 - C. What is the purpose of the submitted documents?
- II. The EPA’s Evaluation and Action
 - A. How is the EPA evaluating the submitted documents?
 - B. Do the documents meet the evaluation criteria?
 - C. The EPA’s recommendations to further improve the submitted rules
 - D. Public comment and proposed action
- III. Incorporation by Reference
- IV. Statutory and Executive Order Reviews

I. The State’s Submittal

A. *What documents did the State submit?*

Table 1 lists the documents addressed by this proposal with the dates that they were amended by the local air agency and submitted by the Arizona Department of Environmental Quality (ADEQ).

TABLE 1 - SUBMITTED DOCUMENTS

Local Agency	Rule Title	Amended	Submitted
PCAQCD	Reasonably Available Control Technology (RACT) Analysis, Negative Declaration and Rules Adoption – Appendix B: Additional Negative Declarations	8/5/2020	8/20/2020
PCAQCD	Chapter 5, Article 13 Surface Coating Operations 5-13-100, “General” 5-13-200, “Definitions” 5-13-300, “Standards” 5-13-400, “Administrative Requirements” 5-13-500, “Monitoring and Records”	8/5/2020	8/20/2020
PCAQCD	Chapter 5, Article 20 Storage and Loading of Gasoline at Gasoline Dispensing Facilities 5-20-100 “General” 5-20-200 “Definitions” 5-20-300 “Standards” 5-20-400 “Administrative Requirements” 5-20-500 “Monitoring and Records”	8/5/2020	8/20/2020

On September 14, 2020, the EPA determined that the submittal for PCAQCD’s negative declarations and two rules met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. *Are there other versions of these documents?*

We approved earlier versions of the two rules, Article 13 Surface Coating Operations and Article 20 Storage and Loading of Gasoline at Gasoline Dispensing Facilities, into the SIP on August 9, 2019 (84 FR 39196). The PCAQCD adopted revisions to the SIP-approved version on August 5, 2020, and ADEQ submitted them to us on August 20, 2020. If we take final action to approve the August 5, 2020 versions of the two rules, these versions will replace the previously approved versions of these rules in the SIP.

We approved portions of the RACT SIP and negative declarations on August 9, 2019 (84 FR 39196). The PCAQCD adopted additional negative declarations on August 5, 2020, and ADEQ submitted them to us on August 20, 2020.

C. *What is the purpose of the submitted documents?*

Emissions of VOCs and oxides of nitrogen (NO_x) contribute to the production of ground-level ozone, smog and particulate matter (PM), which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC and NO_x emissions. Sections 182(b)(2) and (f) require that SIPs for ozone nonattainment areas classified as Moderate or above implement RACT for any source covered by a Control Techniques Guidelines (CTG) document and for any major source of VOCs or NO_x. The PCAQCD is subject to this requirement as it regulates the Pinal County portion of the Phoenix-Mesa ozone nonattainment area that is currently designated and classified as a Moderate nonattainment area for the 2008 8-hour ozone NAAQS. Therefore, the PCAQCD must, at a minimum, adopt RACT-level controls for all sources covered by a CTG document and for all major non-CTG sources of VOCs or NO_x within the ozone nonattainment area that it regulates. Any stationary source that emits or has the potential to emit at least 100 tons per year (tpy) of VOCs or NO_x is a major stationary source in a Moderate ozone nonattainment area (CAA section 182(b)(2), (f) and 302(j)).

Section III.D of the preamble to the EPA's final rule to implement the 2008 ozone NAAQS (80 FR 12264, March 6, 2015) discusses RACT requirements. It states in part that RACT SIPs must contain adopted RACT regulations, certifications where appropriate that existing provisions are RACT, and/or negative declarations that no sources in the nonattainment area are covered by a specific CTG. *Id.* at 12278. It also provides that states must submit appropriate supporting information for their RACT submissions as described in the EPA's implementation rule for the 1997 ozone NAAQS. See *Id.* and 70 FR 71612, 71652 (November 29, 2005). The submitted negative declarations provide PCAQCD's analyses of its compliance with the CAA section 182 RACT requirements for the 2008 8-hour ozone NAAQS. PCAQCD also adopted and submitted for SIP approval the following two rules.

Chapter 5, Article 13 is a rule that establishes VOC content limits for surface coating

operations in the Pinal County portion of the Phoenix-Mesa 8-hour ozone nonattainment area. It contains: definitions; VOC content limits; various partial exemptions; requirements for coating application methods, cleanup of application equipment, work practices for the handling, disposal, and storage of VOC containing materials, and emission control systems; and requirements for monitoring, testing, and recordkeeping.

Chapter 5, Article 20 is a rule that establishes limits for VOC emissions from gasoline during storage and loading of gasoline at gasoline dispensing facilities. It contains: definitions; various exemptions; requirements for vapor recovery equipment, general housekeeping, gasoline storage equipment, and gasoline loading operations; and requirements for monitoring, testing, and recordkeeping.

EPA's technical support documents (TSDs) have more information about the District's negative declarations, rules, and the EPA's evaluations thereof.

II. The EPA's Evaluation and Action

A. How is the EPA evaluating the submitted documents?

SIP rules must require RACT for each category of sources covered by a CTG document as well as each major source of VOCs or NO_x in ozone nonattainment areas classified as Moderate or above (CAA section 182(b)(2)). The PCAQCD regulates a Moderate ozone nonattainment area (40 CFR 81.303) so the District's rules must implement RACT.

States must submit for SIP approval negative declarations for those source categories for which they have not adopted CTG-based regulations (because they have no sources above the CTG-recommended applicability threshold) regardless of whether such negative declarations were made for an earlier SIP.¹ To do so, the submittal should provide reasonable assurance that no sources subject to the CTG requirements currently exist in the portion of the ozone nonattainment area that is regulated by the PCAQCD.

The District's analysis must demonstrate that each major source of VOCs or NO_x in the

¹ 57 FR 13498, 13512 (April 16, 1992).

ozone nonattainment area is covered by a RACT-level rule, or submit a negative declaration that no such sources exist in the part of the nonattainment area that is within the District. In addition, for each CTG source category, the District must either demonstrate that a RACT-level rule is in place, or submit a negative declaration. Guidance and policy documents that we use to evaluate CAA section 182 RACT requirements include the following:

1. “State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,” 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. EPA Office of Air Quality Planning and Standards, “Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,” May 25, 1988 (“the Bluebook,” revised January 11, 1990).
3. EPA Region IX, “Guidance Document for Correcting Common VOC & Other Rule Deficiencies,” August 21, 2001 (“the Little Bluebook”).
4. “State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,” (the NO_x Supplement), 57 FR 55620, (November 25, 1992).
5. Memorandum dated May 18, 2006, from William T. Harnett, Director, Air Quality Policy Division, to Regional Air Division Directors, Subject: “RACT Qs & As – Reasonably Available Control Technology (RACT): Questions and Answers.”
6. “Final Rule to Implement the 8-hour Ozone National Ambient Air Quality Standard – Phase 2,” 70 FR 71612 (November 29, 2005).
7. “Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements,” 80 FR 12264 (March 6, 2015).

Rules that are submitted for inclusion into the SIP must be enforceable (CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (CAA section 110(l)), and must not modify certain

SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (CAA section 193).

In addition to the documents listed above, guidance and policy documents that we use to evaluate enforceability, stringency, and revision/relaxation requirements include the following:

1. “Design Criteria for Stage I Vapor Control Systems – Gasoline Service Stations,” EPA-450/R-75-102, November 1975.
2. “Control of Volatile Organic Emissions from Existing Stationary Sources – Volume VI: Surface Coating of Miscellaneous Metal Parts and Products,” EPA-450/2-78-015, June 1978.
3. “Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings,” EPA 453/R-08-003, September 2008.
4. “Model Volatile Organic Compound Rules for Reasonably Available Control Technology,” June 1992.
5. Memorandum dated March 17, 2011, from Scott Mathias, Interim Director, Air Quality Policy Division, U.S. EPA to Regional Air Division Directors, Subject: “Approving SIP Revisions Addressing VOC RACT Requirements for Certain Coatings Categories.”

B. *Do the documents meet the evaluation criteria?*

These rules meet CAA requirements and are consistent with relevant guidance regarding enforceability, RACT, and SIP revisions. After reviewing PCAQCD’s list of Title V permitted facilities, we have also determined the negative declarations adopted by PCAQCD are correct. The TSDs have more information on our evaluation.

C. *The EPA’s recommendations to further improve the submitted rules*

The TSDs include recommendations for the next time the local agency modifies the rules.

D. *Public comment and proposed action*

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rules and negative declarations because they fulfill all relevant requirements. We will accept comments from the public on this proposal until **[Insert date 30 days after date of**

publication in the *Federal Register*]. If we take final action to approve the submitted rules and negative declarations, our final action will incorporate these rules into the federally enforceable SIP. Our final approval of the submitted rules and negative declarations would correct all of the deficiencies identified in our August 9, 2019 partial approval, partial disapproval and limited approval, limited disapproval of PCAQCD's RACT SIP submittal for the 2008 8-hour ozone NAAQS (84 FR 39196).

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the two PCAQCD rules described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through <https://www.regulations.gov> and at the EPA Region IX Office (please contact the person identified in the "FOR FURTHER INFORMATION CONTACT" section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference,

Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Dated: February 23, 2021.

Deborah Jordan,
Acting Regional Administrator,
Region IX.

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